

MLPA INITIATIVE CONSTITUENT INVOLVEMENT ROUNDTABLES SUMMARY

The following is a summary of highlights from the discussions at five Constituent Involvement Roundtables focusing on the California Marine Life Protection Act (MLPA) Initiative. The purpose of the roundtables was (1) to provide a brief overview of the MLPA Initiative objectives and organizational structure and (2) to identify interests, challenges, opportunities, and process options for effective constituent involvement in the MLPA Initiative. **This summary is intended to capture the highlights of the discussions at the roundtables. It is not a comprehensive summary, and consequently it does not attempt to capture or summarize every statement made during the roundtable discussions. Comments summarized herein were made by one or more participant and do not necessarily reflect the opinions of all roundtable participants.**

Introduction and Background

The MLPA Initiative Constituent Involvement Roundtables took place between August 31 and September 2, 2004. There were five meetings, each lasting approximately three hours. The first four meetings took place at the Elihu Harris Building in Oakland, California during morning and afternoon sessions on August 31 and September 1, 2004. The last meeting took place at the Department of Fish and Game office in Los Alamitos, California on the morning of September 2, 2004. The meetings were organized and attended by representatives from the California Resources Agency, the California Department of Fish and Game (Department), and the Resources Legacy Fund Foundation (RLFF). The meetings were facilitated by RESOLVE, Inc., a neutral, non-partisan consensus building and dispute resolution organization.

Participation in the meetings was by invitation, and invitees were intended to represent a cross-section of stakeholders with interests in the MLPA Initiative process and its implementation. Invitees to the first meeting included representatives of environmental, conservation and other non-governmental organizations. Invitees to the second meeting included representatives of state, federal, and municipal agencies along with harbor and marine navigation organizations. Invitees to the third meeting included representatives of scientific and educational institutions as well as government agency scientists. Invitees to the fourth and fifth meetings included consumptive and non-consumptive, commercial and non-commercial resource users, and coastal business interests divided between the two meetings according to geographic location. Overall, the meetings were attended by 70 individuals out of approximately 100 invitees.

The meetings began with a short presentation on the MLPA Initiative. For the presentation, the participants were provided with several handouts including a four-page Conceptual Overview of the MLPA Initiative (<http://www.dfg.ca.gov/mrd/mlpa/overview.html>) and a one-page summary of organizational structure (as reflected in the Memorandum of Understanding describing the MLPA Initiative), along with printouts from the MLPA Initiative website and copies of the PowerPoint slides describing the MLPA Initiative. Following the presentation, participants were provided an opportunity to ask clarifying questions and make comments.

Participants were asked generally about what they saw as key challenges and opportunities for effectively participating in the MLPA Initiative. They were also asked for suggestions on how

most effectively to engage and involve their constituent groups and to improve the likelihood of success for the MLPA Initiative. These broad questions provided the launching point for a discussion that highlighted a number of key issues and concerns for the stakeholder groups and provided suggestions for ways in which to improve stakeholder and public participation and for ways to generally improve the process.

Discussion

The issues and suggestions outlined below represent the highlights from all five constituent involvement roundtable discussions. The focus of this summary is on issues related to constituent involvement in the MLPA Initiative in particular and the MLPA Initiative process in general. Participants expressed additional concerns related to the final outcomes of the MLPA Initiative and concerns with the validity of the MLPA itself. These concerns were recorded, but are not summarized in this document.

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Challenges, opportunities, suggestions and other comments related to the MLPA Initiative process are arranged below by general topic, starting with comments directed specifically at stakeholder and public participation.

1. Stakeholder and Public Participation

Consistent with the primary purpose of the roundtables, participants raised many concerns and made many suggestions with respect to effective stakeholder participation.

Re-invigorating participation. Participants initially wondered how the stakeholder/working groups for the new MLPA Initiative could be re-invigorated in the wake of the prior attempt to implement the MLPA involving similar stakeholder groups. Participants suggested involving new and fresh participants as well as holding field trips or other activities to help orient new participants and build working relationships. They also suggested building on the work done by the Regional Working Groups under a prior implementation effort to avoid duplicating previous work.

Selecting stakeholder participants. Participants also felt it was important to ensure not only a good structure and process for participation but also that the selected stakeholder participants are prepared to work in good faith on implementation and are not trying to derail the process entirely. Participants suggested that there be a commitment or pledge required of stakeholder participants at the outset to help ensure good faith participation. Participants pointed out that sometimes it may be necessary to look deeper into a particular stakeholder group than the designated representative in order to get the full range of perspectives. It was suggested to use questionnaires to poll a group's members.

Relative role of stakeholder input. Participants were concerned with what appeared to them to be a diminished role for stakeholder input, as implied by the one-page description of organizational

structure provided with the roundtable materials (reflecting the organizational structure set forth in the Memorandum of Understanding describing the MLPA Initiative). That structure seemed to imply a large, top-down bureaucracy with insignificant stakeholder input. They pointed out that the structure did not show the essential personal contact between resource users and regulators and that it did not show the right connections for good decision making. They recommended direct interaction between stakeholders and the Master Plan Science Advisory Team (the “Science Advisory Team”) and the Central Coast Science Advisory Sub-Team (or other regional science advisory sub-teams). Participants recommended recreational and commercial fishery liaisons on the Science Advisory Team, as well as a fishery manager and fishery scientist. After hearing from meeting organizers that the structure was only intended to show project staffing and organizational relationships, not avenues of communication or input, participants still wanted to know what stakeholder communication really does look like. Participants wondered whether limited stakeholder representation can really balance the influence of multiple regulatory agencies.

Timing of stakeholder participation. Stakeholders were concerned with the timing of participation and commented that opportunities for input should not wait until everything is done or nearing completion. For example, resource users and other stakeholders need direct interaction with the Science Advisory Team and sub-teams from the outset and before those teams make decisions. Stakeholders should be provided with drafts of material for feedback early in the process. Participants did not want to be presented with a limited set of options – a fait accompli – after stakeholders have put in a lot of time and effort. This was perceived to be the pattern in prior attempts to implement the MLPA, although it was also acknowledged that later implementation efforts had significantly improved stakeholder involvement (e.g., the Regional Working Groups). Participants also recommended leaving the stakeholder groups in place throughout the process until final designation and perhaps during implementation as well to address any further issues that may arise.

Anecdotal information. Participants also suggested that there needs to be a better or more systematic way to incorporate first-hand knowledge to create a more meaningful role for stakeholders and the public. Participants wanted to identify a method by which this information could be given meaningful and quantifiable consideration by the Science Advisory Team. (See also the paragraphs below on Decision Making and on the Task Force and Science Advisory Team.)

Public participation. Participants commented that there is a distinction between stakeholders and “the public.” The public also really cares about ocean protection issues, especially when asked (e.g., through polling, etc.), and public opinion is important to obtain in addition to the perspectives of issue-based citizen groups. Participants noted that the opinions of the “public” are hard to clearly define. Polling can help collect such information, but expert guidance is needed on the validity of collection techniques. Careful consideration is also needed regarding how to introduce such information into the decision-making process.

Opportunities for comment at meetings. Roundtable participants felt strongly that stakeholders and the public in general should have some opportunity for comment at each meeting of the MLPA Blue Ribbon Task Force (the “Task Force”) and the Science Advisory Team, as well as other project-specific team meetings, and that a few meetings of each body should be devoted solely to public comment. Participants pointed out that just because the Task Force and other

meetings are “open” to the public, it does not mean that there will be an opportunity for the public to comment or otherwise participate. Participants recommended that the MLPA Initiative provide clear and regular opportunities for public comments, questions and answers, and suggestions and that the MLPA Initiative could offer to hold special meetings of the Task Force and Science Advisory Team (and sub-teams) or hold brownbag lunch types of events with the MLPA Initiative staff. Caucuses were mentioned as another tool for public/stakeholder input.

Effective notice and open meetings. Participants suggested that all meetings of all the various workgroups be open and publicly noticed (although there was at least one comment suggesting that closed-door meetings were sometimes valuable for getting a lot of work accomplished efficiently). Participants also noted the difference between *official* “public notice” and general or effective notice to the public. Participants said it was important to get notice out as early as possible and that while Web based notice is good, it should not be used exclusively. E-mail list servers are also helpful, but traditional media should be used as well. Participants also wanted to be sure that stakeholders would receive meeting materials well in advance of scheduled meetings.

Balancing participation with employment. Participants also noted that stakeholders have to balance the need for early and frequent input with the need to work and make a living. It was said that many stakeholders are self employed or otherwise not compensated for the time they spend participating in the MLPA Initiative process and, in some cases, stakeholders actually are foregoing income to attend meetings. Such participants need to focus their attention on meetings where decisions are going to be made – and to do that they need clear information on the purpose and expected outcomes of each meeting. In some cases, participants suggested that informal contacts (e-mails and phone calls) may be a better method for engagement and feedback for those who cannot afford to attend many meetings. Other suggestions included holding meetings port by port in the affected region and choosing times and days when working stakeholders could attend.

Non-consumptive users. Participants were concerned with the need to represent the interests of non-consumptive private (non-commercial/individual) users. They felt that the representation of these uses often falls to environmental NGOs, but that this is not ideal. They recommended providing resources to support participation of academics and others without a vigorous agenda.

Re-building public/stakeholder trust. Overall, participants noted that there is a need to re-build stakeholder/public trust in the process. Trust, they said, is hard to build and easy to lose, and much trust was lost during previous MLPA efforts (although participants also recognized the trust built through the previous Regional Working Group process). It was suggested that there needs to be a clear message regarding why there is a shift from the prior Regional Working Group approach to this new MLPA Initiative process.

2. The Master Plan Framework Process

Roundtable participants expressed concern over the perceived lack of opportunities for stakeholder input on the Master Plan Framework. They observed that the Master Plan Framework is the key document that will define the MLPA Initiative process, but there appears to be no stakeholder group involved in its development. Participants said there must be an opportunity for stakeholders to comment on the development of the Master Plan Framework, not

just on the Central Coast project and the other subsequent regional efforts. By the time regional groups begin work, they pointed out, the structure will be set. Participants were concerned that the eight month time frame for developing the draft Master Plan Framework was insufficient. Participants also noted that even the Central Coast regional process will likely see only limited public or stakeholder participation because the region does not include a large resource-user population. Consequently, there is concern that the Central Coast Project will set a precedent for such regional processes before there is significant involvement by some stakeholder interests.

3. The MLPA Initiative Process Generally

Growing out of the comments and concerns regarding stakeholder and public involvement in particular, participants raised a number of additional concerns about the MLPA Initiative process generally.

Political will. At the outset, participants questioned whether the political will exists at all levels necessary to follow through with MLPA implementation this time. Participants suggested the governor's office should be involved.

Overcoming problems with past attempts. Although the budget crisis and a lack of resources are most often cited as reasons for the failure of prior attempts to implement the Act, roundtable participants pointed out that the prior attempts had problems besides a lack of resources to complete the job. Participants wondered how the MLPA Initiative will be different and how it will address those problems. Noting that the first attempt seemed to have insufficient process, but the second had too much, participants were hopeful that this process will strike the right balance and be sufficiently transparent.

Need for leadership and for clear goals, objectives and outcomes. Participants pointed out the need for concrete leadership and a commitment to an end point, not just the process. Clear objectives for the process are essential, they stated, as is a clearly defined baseline from which to measure progress. It was suggested that goals such as "protecting biological diversity" are too vague. Participants wanted to know up front if there were specific targets or objectives for MLPA implementation, such as percent area coverage targets for marine protected areas (MPAs). It was suggested that there be a specific acknowledgement that existing protections were insufficient and that more MPAs would have to be created to satisfy the requirements of the MLPA. Participants further advised that public education is needed to overcome "generational amnesia" or "shifting baselines" – i.e., to effectively communicate the current status of the resource relative to its potential or historical status. This, they advised, should then relate to the objectives or endpoint that is to be achieved.

The Task Force and the Science Advisory Team. Participants wanted a clear description of the Task Force and Science Advisory Team decision making processes (see also section below on Decision Making). Participants also said that clear lines of communication should be drawn among the stakeholder groups, the Science Advisory Team and sub-teams, and the Task Force. There was concern that the technical issues involved in MPA designation were too complex for the membership on the Task Force or that the recreational activities or other interests of the Task Force membership would bias their decisions. Other participants were concerned that there was a deficit of socioeconomic expertise and information that would handicap deliberations by the Science Advisory Team.

Information dissemination and transparency. Nearly all the participants encouraged the staff to the MLPA Initiative to get as much information on the Web as possible and do it as soon as possible, including information regarding RLFF (see below) and any specific goals, outcomes or guidance as to the desired result. Participants also suggested providing stakeholders with any computer models that are used and helping them understand how they work. Participants suggested audiotaping or videotaping Task Force and Science Advisory Team meetings and making the tapes available to the public.

Communications. Participants also suggested that the MLPA Initiative may want to consider hiring a communications director to do a better job of communicating the MLPA Initiative's goals, process, etc. to stakeholders and the public at large. Participants also suggested that it may be worthwhile for the Department to meet directly with opponents of the process.

More constituent involvement roundtables. The participants overwhelmingly concluded that these were useful meetings, and that there would be value in having at least one other constituent involvement "check-in" at some point, or even several regularly scheduled roundtables, during the course of the MLPA Initiative. The participants appreciated the opportunity that the roundtables provided for informal information exchange. Participants also agreed that next time the various stakeholder interest groups should be mixed together. Participants thought that mixing of the different types of interested constituencies (resource users, agencies, scientists, citizen groups, etc.) would lead to constructive information exchange and better working relationships.

Sufficient time. Finally, participants suggested that organizers give the process sufficient time. Participants were concerned that the MLPA Initiative timeline was too aggressive and would fail. More time, they suggested, yields better results.

4. RLFF Involvement

There was a serious concern among participants that funding from the Resources Legacy Fund Foundation (RLFF) could influence the outcome of the MLPA Initiative. There were participants who said that it appears that RLFF money has essentially "bought" implementation of the MLPA. Participants were concerned that Department positions funded by RLFF would be subject to influence, and this perception creates great mistrust in the process. Participants also pointed out that just because a process is open does not mean there is no inappropriate influence. Possible solutions suggested by participants included (1) improving the transparency of the process by including information on RLFF and its role on the MLPA Initiative website and as requested, (2) ensuring that Task Force membership is free from actual or perceived conflicts of interest, and (3) keeping the door open for others to contribute funds to support the process. Participants noted that a clearly delineated firewall between funding sources and project activities would also help.

5. Coordination with Other Programs

There are many different state and federal agencies running various processes designed to protect marine life or water quality and in some cases to establish marine protected areas (MPAs). Participants agreed on the need to coordinate among these agencies and processes, to inform

each other, and to inform the public of how they interrelate to help allay fears. Four ideas were offered by participants: (1) using the www.pacificmpa.org website (a public clearinghouse for planning information on Pacific coast marine protected areas) to educate responsible officials and the public, (2) establishing a regular meeting of the various agencies' MPA process managers to inform and coordinate with each other, (3) establishing a single and consistent (over time) contact for MPA coordination at each agency, and (4) develop a method to educate the Pacific Fishery Management Council staff on the MLPA Initiative. Collectively, it was suggested, these actions will help build working relationships and an understanding of parallel processes. Cooperation, participants pointed out, will also allow one agency to take advantage of the unique political, scientific or other strengths of another agency and will effectively leverage each agency's strengths.

6. The Role of Scientists

Advisor vs. stakeholder. Roundtable participants pointed out that the process needs to recognize the difference between the scientist as an advisor to the decision making process and the scientist as a stakeholder or user of the resource. Roles and skill sets for these two distinct occupations need to be clearly defined. The distinction, it was pointed out, may be more difficult with respect to social scientists.

Disincentives for scientist participation. Participants observed that the number of true scientist-stakeholders is likely to be small because scientists are not likely to fully engage in the process unless they are directly studying MPAs or unless the establishment of MPAs will otherwise directly affect their research. Scientists may also be reluctant to engage as stakeholders because they will be concerned that such a role will adversely affect their future ability to receive funding for monitoring or research related to MPAs. Also, scientists often lack the resources needed to devote significant time for public or stakeholder participation. One solution to obtain a scientist stakeholder may be to go to the administrative (department head) level to get a wider perspective. Another solution might be for interested scientists to form a representative organization and have that organization be a stakeholder.

Scientist advisors. There was also discussion regarding the use of scientists as advisors to the process. Participants suggested that the best use of science advisory expertise may be through the creation of ad hoc groups aimed at particular issues. Others pointed out the utility in having science expertise at the table for all discussions and meetings – always available to address questions or issues as they arise.

Social and economic sciences. Participants stressed the need to ensure that the process adequately considers the social and economic sciences as well as the biological sciences in the decision making process. Participants were concerned that there would not be adequate consideration of socioeconomic information.

Re-building confidence. Whether the involvement of the scientific community is in an advisory or stakeholder capacity, participants noted that in order to effectively re-engage the scientific community, the MLPA Initiative will need to repair the damage to the credibility of the MLPA process from prior attempts at implementation. Participants said that this could be accomplished in part by ensuring greater transparency for the process, such as keeping the scientific community updated with weekly or monthly e-mail messages.

7. Central Coast and Regional Processes

There were a number of concerns and suggestions raised specifically with respect to the Central Coast and other regional projects.

Central Coast. Many questions were raised about the Central Coast project relating primarily to how and why that region was chosen and what its boundaries would be. It was also suggested that the Central Coast Science Advisory Sub-Team and other working groups would need to have information provided at the appropriate scale.

Process for other regions. Participants were insistent that there needs to be a clear framework or process for advancing proposals for MPAs and MPA networks in regions other than the Central Coast. Such a process, they said, should establish expected timelines and a process for review and define a set of key elements, standards or criteria for proposing MPAs and MPA networks in areas other than the Central Coast. Participants felt that MPA proposals in other areas should be able to move forward on a path to final designation concurrently with the Central Coast process.

8. Decision Making

Although not directly related to stakeholder participation, roundtable participants had other suggestions regarding how the MLPA Initiative process should be structured in order to be, from their perspective, more successful.

Decision making protocol. Roundtable participants wanted the MLPA Initiative sponsors to clarify the decision making protocol, such as whether decisions will be made by a majority vote or by consensus. They recommended that unanimity or consensus not be required as it gives too much power to minority positions.

Mobilization bias. Participants advised the MLPA Initiative decision makers to be aware of “mobilization bias,” where a few really dedicated people have a disproportionately large influence on the outcome. Participants suggested that the MLPA Initiative should be prepared to balance interests that are “an inch deep and a mile wide” as well as those that are “a mile deep and an inch wide.”

Tradeoffs with other programs. Participants said the MLPA Initiative should be clear on what management decisions or changes are allowed with respect to program elements that are from outside the MLPA process, such as tradeoffs with water quality zones or other fisheries management tools.

Accounting for existing regulation. Stakeholders felt strongly that the status of existing protected areas and other regulations, including fishing regulations, should contribute to the decision-making process. For example, they suggested that the MLPA Initiative should use existing rockfish conservation areas (characterized by species and gear restrictions in certain depth zones) to satisfy MLPA requirements. Participants wanted decision makers to look at the big picture and consider the collective impact of all kinds of closures and restrictions on fishing, not just the effect of MLPA areas. Participants also suggested mitigating for the establishment of MPAs and establishing a mechanism for de-commissioning or sun-setting MPAs that are no

longer needed or that do not accomplish their goals. According to participants, decision makers need to recognize that although the MLPA may be concerned with more than just fisheries management, it nevertheless is a tool for fisheries management and should be considered in that context. Participants expressed frustration that whenever there is a marine environmental problem, whether it is related to water quality, fishing or another factor, the solution always seems to be to regulate or restrict fisheries.

Decision support technologies. One participant pointed out the availability of decision support tools such as the computer assisted audience response system “OptionFinder.” OptionFinder is a software system with wireless keypads for polling audiences in meetings or classrooms and displaying the results.

Outcomes. In the end, participants wanted the decision makers to ask whether implementation of the MLPA will solve the problem it was intended to address.

9. Funding and Staffing

Although not directly related to stakeholder participation or process, stakeholders presented concerns related to the long-term funding for the MLPA Initiative and the effect of the Initiative on existing Department responsibilities and services. For example, there was concern that the devotion of staff and other resources to this project would diminish services fishermen receive for their license fees – fees that were raised in recent years. There were also concerns regarding how hires were being made by the Department and who was making other appointments related to the MLPA Initiative. Participants also raised concerns about the availability of funds for long-term monitoring and enforcement. One suggestion offered for ensuring long-term funding was user fees for both non-consumptive resource users and consumptive users.

Conclusion

Participants at each of the meetings were fully engaged and discussions were energetic. Participants offered many constructive suggestions for improving MLPA Initiative constituent involvement. The attending representatives of the Resources Agency, the Department of Fish and Game, and the Resources Legacy Fund Foundation appreciate the time spent and the effort made by the participants to attend these meetings as well as the candor of the discussions and the thoughtful suggestions offered. The Department and the Resources Agency will consider the comments received and act on them as appropriate.